

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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|---|--|-------------------------------|
| EDITH PALOS,<br><i>Plaintiff,</i>   | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | Civ. Action No. 4:09-cv-02798 |
| v.  |  |                               |
| UNIVERSITY OF TEXAS HEALTH<br>SCIENCE CENTER AT HOUSTON,<br><i>Defendant.</i> |  |                               |

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**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO EXTEND  
DEADLINES TO DESIGNATE EXPERT WITNESSES AND FILE EXPERT REPORTS**

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TO THE HONORABLE KENNETH M. HOYT, UNITED STATES DISTRICT JUDGE:

Pursuant to this Court's July 26, 2010 Order, Defendant, University of Texas Health Science Center at Houston files this Response [Dkt. #14] and respectfully shows the Court as follows:

Plaintiff filed her Motion To Extend Deadlines To Designate Expert Witnesses And File Expert Reports (the "Motion") on July 19, 2010 – the Court’s deadline for Plaintiff to actually file an expert designation and for producing any expert reports.<sup>1</sup> Given the course of discovery to date, Defendant is genuinely concerned with delays in discovery that would slow this case’s progression toward its final disposition. In short, the Plaintiff must present herself to be deposed.

In her Motion, Plaintiff’s attorney stated that he is preparing his client’s deposition which was scheduled for July 21, 2010 [Dkt. #12, p.1]. On July 20, 2010, the day after Plaintiff filed

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<sup>1</sup> Southern District LR 7.1(D) requires that counsel filing an opposed motion certify that he has both conferred with opposing counsel and that the parties cannot agree about the disposition of the motion. Plaintiff’s certificate of conference in her Motion does not attempt to satisfy the letter or spirit of this local rule.

her Motion, the undersigned counsel received a telephone call and email from Plaintiff's attorney's paralegal stating the Plaintiff's deposition would need to be cancelled because Plaintiff's attorney was in "trial" in an administrative proceeding before the Texas Education Association, which would continue through July 21. Defendant's attorney wrote a letter to Plaintiff's attorney (attached hereto as Exhibit 1) rescheduling the July 21, 2010 deposition to August 6, 2010. On July 26, 2010, Plaintiff's attorney's staff, again, left a message with my office advising that the August 6, 2010, deposition would need to be rescheduled – this time to August 10, 2010, because Plaintiff could not take time off from work on the 6<sup>th</sup>.

Defendant does not oppose Plaintiff's request to extend the deadline to designate expert witnesses and provide expert reports to August 2, 2010 (provided that Defendant's deadline is similarly extended two weeks), however Defendant asks the Court to condition its extension on the production of Plaintiff for deposition on August 10, 2010 – now the third setting for this deposition.

Dated: July 30, 2010

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

C. ANDREW WEBER  
First Assistant Attorney General

DAVID S. MORALES  
Deputy Attorney General for Civil Litigation

ROBERT B. O'KEEFE  
Chief, General Litigation Division

/s/ Darren G. Gibson  
**DARREN G. GIBSON**

Attorney-In-Charge  
Texas Bar No. 24068846  
Southern District No. 1041236  
Darren.Gibson@oag.state.tx.us  
Assistant Attorney General  
General Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
(512) 463-2120  
(512) 320-0667 FAX

***ATTORNEYS FOR DEFENDANT  
UNIVERSITY OF TEXAS HEALTH  
SCIENCE CENTER AT HOUSTON***

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Defendant's Response to Plaintiff's Motion to Extend Deadlines to Designate Experts and file Expert Reports was served via the *CM/ECF system* on July 30, 2010, to:

Larry Watts  
P.O. Box 2214  
Missouri City, Texas 77459  
*Attorney for Plaintiff*

/s/ Darren G. Gibson  
**DARREN G. GIBSON**  
Assistant Attorney General